



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/158923

PRELIMINARY RECITALS

Pursuant to a petition filed July 10, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on August 29, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner's request for \$500 in replacement FS benefits when she provided verification of the power outage, but agreed that she had only lost \$150 of food purchased with her FS benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

|

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Jose Silvestre

Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. Petitioner receives \$750 in monthly FS benefits.

2. From June 30, 2014 through July 1, 2014 Petitioner suffered a power outage. Petitioner lost \$150 of food purchased with her FS benefits during the multi day power outage.
3. On July 9, 2014 Petitioner applied for \$500 in replacement FS benefits. Petitioner included a letter from WE energies stating that power at [REDACTED] in Milwaukee was out from June 30, 2014 through July 1, 2014. The letter was addressed to [REDACTED] who also lives at the address, but has a separate FS case. The agency filed the letter under [REDACTED]'s case, and denied Petitioner's application for replacement FS benefits for failing to provide verification of the power outage.

DISCUSSION

Food purchased with FoodShare benefits and destroyed in a household misfortune can be replaced up to the actual amount destroyed, but not more than the monthly allotment issued for that month, whichever is less. See, *FoodShare Wisconsin Handbook* § 7.1.1.5; 7 C.F.R. § 274.6(a)(3). The household must report the loss within 10 days, and file a request for replacement FS with the Department's agent. *FoodShare Wisconsin Handbook* § 7.1.1.5. The household must also provide verification of the household misfortune. *Id.*

The first issue is whether Petitioner timely provided verification of her power outage. Petitioner testified that she provided verification of her power outage with her application for replacement FS benefits. Petitioner's application was timely. The verification provided was a letter from WE energies addressed to [REDACTED]. [REDACTED] lives at the same address, but has his own separate FS case. As Petitioner testified, the agency looked up [REDACTED]'s case and found a WE energies letter providing verification of the power outage at Petitioner's address. Petitioner testified that she provided that letter with her application. This was a widespread power outage that affected many homes. There were a large number of applications for replacement FS benefits due to this power outage. I find that the agency timely received Petitioner's verification of the power outage, but did not file it under her FS case because the WE energies letter was not addressed to her.

The next issue is the amount of replacement FS benefits Petitioner is entitled to. Petitioner testified that the \$500 listed on her application for replacement FS benefits was the total amount lost between Petitioner, [REDACTED], and her daughter. All three live at the same address, but have separate FS cases. The agency already provided [REDACTED] with \$150 in replacement FS benefits and her daughter with \$200 in replacement FS benefits. Thus, Petitioner believed that her loss was actually \$150. Based upon Petitioner's testimony I find that Petitioner's lost \$150 in food during the power outage.

CONCLUSIONS OF LAW

The agency incorrectly denied Petitioner's application for replacement FS benefits because Petitioner provided verification of her power outage.

THEREFORE, it is

ORDERED

That this case is remanded back to the agency to issue Petitioner \$150 in replacement FS benefits. The agency should complete this action within 10 days of this decision.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative

Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found at your local library or courthouse.

APPEAL TO COURT

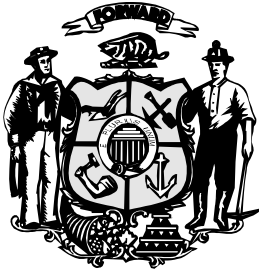
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 3rd day of September, 2014

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on September 3, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability